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SouthernEnvironment.org

March 1, 2011

VIA EMAIL

U.S. Environmental Protection Agency
Region 4 Freedom of Information
SNAFC Bldg. 61 Forsyth Street., S.W., 9th Flr
Atlanta, GA 30303-8960
Email: r4foia@epa.gov

CASE NO. 00349-11
DATE 3/3/11
BY Alpha
ML α
OTHER

Re: **FREEDOM OF INFORMATION ACT REQUEST**

Dear Sir or Madam:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, the Southern Environmental Law Center ("SELC") submits this request on behalf of the South Carolina Coastal Conservation League ("League"). We request all records related to discharges by the Carnival Fantasy (vessel identifier 8700773; assigned NPDES permit tracking number VPAAU750L) into South Carolina waters. This request includes, but is not limited to, the following:

1. All monitoring and reporting data and information submitted for the Carnival Fantasy pursuant to the Environmental Protection Agency ("EPA")'s Vessel General Permit ("VGP"), the Notice of Intent Form submitted for the Carnival Fantasy on September 3, 2009, and/or 40 C.F.R. § 122.41 that concerns or relates to discharges into South Carolina waters, as well as any related records.
2. Any and all comprehensive annual vessel inspection(s) of the Carnival Fantasy conducted pursuant to Section 4.1.3 of the VGP, as well as any related documents.
3. Any one-time report submitted for the Carnival Fantasy pursuant to VGP Section 4.4.4, as well as any related documents.
4. All monitoring reports, compliance schedules, 24-hour reports, instances of non-compliance, and other documents related to discharges by the Carnival Fantasy into South Carolina waters.

For purposes of this request, the term "document" includes all written, printed, recorded or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, books, papers, maps, photographs, data, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages, and mail in the possession, custody, or control of the EPA. This request includes, but is not limited to, internal and interagency meeting notes; electronic mail messages (whether sent, received, deleted, etc.,

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including attachments), telephone logs, notes or other records of communications with other federal state agencies, elected officials, or members of the public; and comments submitted by the public and by state and federal agencies. Our request also specifically includes responsive documents and records prepared by, created by, or in the possession, custody, or control of EPA agents, contractors, and subcontractors.

For the purposes of this request, the term "communications" shall include without limitation all letters, e-mails and other electronic messages, handwritten notes, facsimile transmissions, and records of telephonic or other oral communications. "Documents that concern or relate to communications" shall include without limitation interagency meeting notes regarding such communications, telephone logs, and notes or other records of such communications. Finally, we request access to each version of a record or document, whether it is a draft, has been electronically deleted, has attachments, or bears annotations.

Pursuant to 18 C.F.R. § 388.108(c)(3), in addition to making responsive documents available for request, should you determine that certain documents are responsive to this request and choose not to produce them on the basis of any claimed privilege or exemption from disclosure, we request that you produce a detailed list of those documents including the date of the document; the authors and recipients; the subject matter of the document; and the basis for the claimed exemption or privilege from disclosure. Further, where a document contains specific information that you claim is exempt or privileged, we request that you simply redact the information so claimed and produce the document in redacted form. The redacted information should be included in the list just described.

FOIA directs a responding agency to make a "determination" on any request within twenty working days of receipt. 5 U.S.C. § 552(a)(6)(A). Because of the time-sensitive nature of our request, we specifically request that you comply with the statutory deadline. Should our request be denied, we ask that you inform us of the grounds for denial and the specific administrative appeal rights that are available. Id.

Under 18 C.F.R. § 388.109(c), documents may be furnished without charge or at a reduced charge where the agency determines that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. The League, American Rivers, and SELC are non-profit organizations with long histories of communicating with the general public on matters of conservation and environmental protection. Therefore, disclosure of the requested records would be in the public interest. In addition, as non-profit entities, the League, American Rivers and SELC do not have commercial interests. Because none of the organizations have a commercial interest in the government operations and the activities that are the subject of the FOIA request, the disclosure of the information will not serve any commercial interests or benefit them financially. In addition, the requested information relates directly to government operations and activities, namely, re-licensing the operation of the Santee-Cooper Hydroelectric Project (P-199). Accordingly, we hereby request a waiver of fees. Should our fee waiver request be denied or deemed to not be in compliance with 18 C.F.R. § 388.109 in any way, requestors are willing to pay reasonable fees and, thus, processing of our

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application should not be delayed for any reason relating to the fee waiver request. *See* 18 C.F.R. § 388.108(a)(5).

Thank you for your prompt attention to this matter. If you have any questions regarding this request, please feel free to contact me at lsaltzburg@selcsc.org or 843-720-5270.

Sincerely,



Lisa Saltzburg

Cc: Blan Holman, SELC



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

March 11, 2011

OFFICE OF
ENVIRONMENTAL INFORMATION

Ms. Liz Saltzburg
Southern Environmental Law Center
43 Broad Street, Suite 300
Charleston, SC 29401-3051

RE: Request Number HQ-FOI-00966-11 & 4-FOI-00349-11

Dear Ms. Saltzburg:

This is in response to your request for a fee waiver in connection with your Freedom of Information Act (FOIA) request to the U.S. Environmental Protection Agency (EPA) Headquarters (HQ's) and Region 4 seeking all records related to discharges by the Carnival Fantasy (vessel identifier 8700773; assigned NPDES permit tracking number VPAAU750L). We have reviewed your justification and based on the information provided, we are denying your request for a fee waiver. You have not expressed a specific intent to disseminate the information to the general public. As a result of you failing to meet the above criteria, accordingly, there is no need to address the remaining prongs of the fee waiver criteria.

EPA's Office of Enforcement and Compliance Assurance (OECA) and Region 4 will be responding to your information request. You have been placed in the other fee category, and will be charged for the costs of search time and duplication, excluding the first two hours of search time and the first 100 pages of duplication. If the estimated costs exceed \$25.00, OECA and Region 4 will contact you regarding the cost of processing your request and seek an assurance of payment. They will be unable to process your request until they receive your assurance of payment.

Under the FOIA, you have the right to appeal this fee waiver denial determination to the National Freedom of Information Office, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20004. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The

appeal letter should include the FOI number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Should you choose to appeal this determination, please be sure to fully address all factors required by EPA's FOIA Regulations, located at 40 C.F.R. § 2.107(l) in your appeal. If you have any questions concerning this determination please contact me at (202) 566-1667.

Sincerely,



for Larry F. Gottesman
National FOIA Officer